

**AGENDA**  
**HARPER COUNTY**  
**BOARD OF COUNTY COMMISSIONERS**

9:00 am

May 26, 2009

Harper County Court House

**A. CALL TO ORDER**

**B. PUBLIC COMMENT**

**C. APPROVAL OF MINUTES**

**D. PAYMENT OF VOUCHERS**

**E. ITEMS OF BUSINESS**

- |      |  |         |
|------|--|---------|
| P 4  | 1) Special Waste Request - Plum Thicket Landfill                         | 9.05 am |
| P 10 | 2) Proposed Charter Resolution - Roadway Improvement                     | 9.30 am |
| P 22 | 3) Board Appointment - South Central Kansas Community Corrections        | 9.35 am |
| P 24 | 4) Logan County Request for Support - Opposing Designation of Endangered | 9.40 am |

Species:

OTHER ITEMS OF DISCUSSION BY THE COUNTY COMMISSION

**F. STAFF REPORTS**

- |      |   |
|------|---|
| P 28 | 1) Road Bridge                            |
| P 30 | 2) Culvert Policy                         |
| P 33 | 3) Radio Shared User Talk group Agreement |
| P 37 | 4) EMS                                    |

**G. WORK SESSION ITEMS**

- |      |   |          |
|------|---|----------|
| P 38 | 1) Bridge Inspections - McCormick - Manderville | 10.00 am |
| P 38 | 2) KDoT 5 Year Improvement Plan                 |          |

**H. ADJOURN**

## **PUBLIC FORUM**

**Citizens are encouraged to speak to items on the agenda when recognized by the Chairman. Citizen desiring to speak to matters not on the agenda may do so at this time. Comments are limited to five (5) minutes and the Commission will take no action on items not on the agenda. Items introduced under Public Comment may become agenda items at a later date.**

## **APPROVAL OF MINUTES**

*Staff recommends motion to approve the minutes as presented/amended.*

## **PAYMENT OF VOUCHERS**

*Staff recommends motion to approve the vouchers as presented/amended.*

## **ITEMS OF BUSINESS**

### **1) Special Waste Request - Plum Thicket Landfill:**

Below is request from Randy Boehmke representing Plum Thicket Landfill to receive a particular type of contaminated soil for use as daily cover at the facility.

Statute and Regulation references are identified within the context of the proposal.

Note the requirement that such waste would have to meet the guidelines of existing agreement with the Board of County Commissioners.

Mr. Boehmke will be in attendance to answer questions.

### *Your options:*

- *Reject the request;*
- *Table the request and seek additional information;*
- *Approve the request;*
- *Do nothing.*



### **Plumb Thicket Special Waste Handling Procedures**

All Special Waste is handled within the guidelines of three separate Kansas Department of Health & Environment approved documents:

1. Kansas Administrative Regulations (specifically KAR 28-29-109 for Special Waste)
2. Plumb Thicket Landfill permit documents, permit # 842
3. Plumb Thicket Operations plan

Each special waste disposed at PTL requires a KDHE special waste disposal approval (SWADA) number. Plumb Thicket also requires a Waste Connections approval (PTL) number. These approvals are reviewed by an environmental scientist at KDHE and by an environmental science supervisor for Waste Connections. As you will see in the attached documents Mr. Commissioners Kansas and Waste Connections have many control policies in place to regulate and track disposal of special wastes.

Looking at the tonnage cap in effect today through April, Plumb Thicket is 27,345.85 tons below the cap. This amount does not include Saturdays which would place us well above 50,000 tons behind the allowed per day cap.

Looking at year over year tonnage figures Plumb Thicket is 16,457 tons behind 2008. This is a revenue loss of over \$53,000 to Harper County year to date.

Plumb Thicket is also approved to use certain waste items as alternate daily cover. I am requesting a waiver of Plumb Thicket's tonnage cap for contaminated soil or impacted soil for this purpose. Contaminated soil is a soil that has had a petroleum product spilled on it.

In order for Plumb Thicket to bid and be awarded a bid for this type of clean up we have to be able to accommodate the volume required to be disposed off in a reasonable time frame. Currently we accept contaminated soil in small quantities. The opportunity is available to accept 18,000 tons of this material. This would return the County's fees received back to 2008 status.

Plumb Thicket has more than ample equipment on site to handle this volume. We currently have 2 D8 dozers, a D6 dozer and 2 compactors. Along with the equipment we have skilled operators at the site.

I appreciate your consideration of this request.

Respectfully,

/s/ Randy Boehmke

District Manager

Plumb Thicket Landfill

## Kansas Department of Health & Environment requirements:

**Request for special waste disposal authorization.** Each person requesting a special waste disposal authorization shall provide the following information to the department:

- (1) A description of the waste, including the following information:
    - (A) The type of waste;
    - (B) the process that produced the waste;
    - (C) the physical characteristics of the waste; and (D) the quantity of waste to be disposed of;
  - (2) the following information concerning the generator:
    - (A) Name;
    - (B) address;
    - (C) telephone number; and
    - (D) contact person;
  - (3) the location of waste generation, if different from the generator address;
  - (4) the name and address of each solid waste transfer station proposed for transfer of the waste;
  - (5) the name and address of the MSWLF proposed for disposal of the waste;
  - (6) a statement, signed by the generator of the waste or an agent of the generator, that the waste is not a listed hazardous waste and is not a waste that exhibits the characteristics of a hazardous waste specified in K.A.R. 28-31-3, based on knowledge of the process generating the waste, laboratory analyses, or both; and
  - (7) each laboratory analysis that has been performed to determine if the waste is a listed hazardous waste or is a waste that exhibits the characteristics of a hazardous waste.
- The person requesting a special waste disposal authorization shall ensure that the following requirements are met:
- (A) Each analysis shall be performed and reported by a laboratory that has departmental certification, if this certification is available, for that analysis.
  - (B) Each analytical laboratory report shall include the following:
    - (i) Each analysis required to make a determination of hazardous waste characteristics as specified in K.A.R. 28-31-3;
    - (ii) all additional analyses specified by the department;
    - (iii) quality control data; and
    - (iv) a copy of the chain of custody.
  - (C) The generator shall provide a signed statement for each analytical laboratory report stating that the analytical results are representative of the waste.
  - (D) If the waste is an unused or spilled product and the waste has not been combined with any substance other than an absorbent, the generator may submit a material safety data sheet for the waste in lieu of laboratory analyses.

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### **(c) Issuance of special waste disposal authorizations.**

- (1) No later than 10 working days after the department receives a request for a special waste disposal authorization, the person making the request shall be notified by the department of one of the following determinations:
  - (A) The request for a special waste disposal authorization is not complete.
  - (B) The waste does not require a special waste disposal authorization.
  - (C) The waste is a special waste, and the request for a special waste disposal authorization is approved.

(D) The waste is a special waste, and the request for a special waste disposal authorization is denied. The denial notification shall include the reason for denial.

(2) If a special waste is authorized for disposal, a written special waste disposal authorization stating the terms for transportation and disposal of the special waste shall be provided by the department to all of the following persons:

(A) The person requesting the special waste disposal authorization, the generator of the waste, or both;

(B) the owner or operator of each solid waste transfer station proposed for transfer of the solid waste; and

(C) the owner or operator of the MSWLF proposed for disposal of the special waste.

(3) A special waste disposal authorization shall not obligate any MSWLF or solid waste transfer station owner or operator to accept the special waste.

**(d) Petroleum-contaminated soil.** Sampling and analysis requirements and procedures for soil and debris contaminated with petroleum products shall include the following:

(1) At least one representative sample shall be collected for analysis from the first 300 cubic yards of soil and debris. If the analytical data from the first sample shows that the waste is not hazardous, one representative sample shall be collected for analysis from each 500 cubic yards of soil and debris after that first sample.

(2) Additional samples may be required by the secretary.

(3) The owner or operator may deviate from the required frequency of sampling schedule with written approval from the secretary. The owner or operator shall submit a written sampling plan and explanation for the deviation from the required sampling schedule to the secretary for review and approval.

(4) To qualify for landfill disposal, the concentration of benzene and 1,2-dichloroethane in the soil and debris shall be less than one of the following:

(A) 10 mg/kg using a total analysis; or

(B) 0.5 mg/l using the toxicity characteristic leaching procedure analysis.

(5) A lead analysis may be required by the department. To qualify for landfill disposal, the concentration of lead in the soil shall be less than one of the following:

(A) 100 mg/kg using a total analysis; or

(B) 5 mg/l using the toxic characteristic leaching procedure analysis.

**(e) Generator requirements for transfer of special wastes.** Each generator of special waste or the agent of the generator shall, before transfer of the special waste, provide the transporter with a copy of the disposal authorization for each load of special waste.

**(f) Transporter requirements for transfer and disposal of special wastes.**

Before transfer or disposal of special waste, each transporter of special waste shall provide notification of each load of special waste to both of the following persons:

(1) The owner or operator of each solid waste transfer station involved in the transport of the special waste; and

(2) the owner or operator of the MSWLF at which the special waste will be disposed.

**(g) MSWLF requirements for acceptance and disposal of special wastes.** The owner or operator of each MSWLF shall comply with each of the following requirements:

- (1) If a load of special waste requires a special waste disposal authorization, check for compliance with the special waste disposal authorization;
- (2) reject any special waste requiring a special waste disposal authorization if the special waste does not meet both of the following requirements: 104
  - (A) Has a special waste disposal authorization issued by the department; and
  - (B) meets the requirements of the special waste disposal authorization;
- (3) notify the department in writing of each special waste load that is rejected at the MSWLF within one business day after the rejection;
- (4) dispose of the special waste only if it meets one of the following requirements:
  - (A) Is capable of passing the paint filter liquids test specified in K.A.R. 28-29-108; or
  - (B) is exempt from the liquids restriction as specified in K.A.R. 28-29-108; and
- (5) maintain documentation in the operating record, as specified in K.A.R. 28-29-108, of each special waste disposed of at the MSWLF, until the MSWLF is certified for closure in accordance with K.A.R. 28-29-121.

Once the two approvals have been made, Plumb Thicket sends the generator enough 5-part manifests to use one with each load. The manifest has 4 sections covering the generator, transporter and destination information plus a section for asbestos. When the transporter gets to the site the manifest is compared to both approvals to ensure all approval numbers are correct and the waste stream reflects what is on the paperwork.

A 24-hour notice is given to Plumb Thicket before delivery. This allows site managers to train operators/scale clerks of the content of the special waste and any special handling or disposal methods required with the waste. This also allows the scale clerks time to build a special waste file for the waste stream and to set the profile up in the Wasteworks system. Plumb Thicket builds the special waste file in 6 parts:

- 1<sup>st</sup> part is a copy of the KDHE authorization containing the requested tons/yards of the special waste to be disposed. That tonnage is tracked on our Wasteworks tracking program.
- 2<sup>nd</sup> part is a copy of Waste Connections approval,
- 3<sup>rd</sup> part is copies of both approval requests.
- 4<sup>th</sup> part is any analytical required for the approvals. These tests are completed using EPA approved methods.
- 5<sup>th</sup> part is copies of the manifests when the loads arrive.
- 6<sup>th</sup> part is a special waste log for tracking.

After all the testing, approvals and paperwork requirements are met and the load is weighed, the scale clerk uses a two-way radio to inform the operator the special waste is coming to the lift and instructions required for disposal. The truck is routed to the lift and the waste unloaded.

Plumb Thicket employs multiple tracking methods of the waste once unloaded. Compactor operators take daily lift locations with a GPS. The GPS locations are tracked on daily location sheets, which are kept for the life of the site. This allows us to find any waste on any given day. Plumb Thicket is also approved to use certain waste items as alternate daily cover. This process is done with a request to the KDHE engineer who is



in charge of over seeing the site. Daily cover must meet certain requirements as found in KAR 28-29-108 (b)

Alternative materials or procedures, including the removal of daily cover before additional waste placement, may be used, if the alternative materials or procedures achieve performance equivalent to the requirements of paragraph (b)(1) in the following areas:

- (A) prevention of blowing debris;
- (B) minimization of access to the waste by vectors;
- (C) minimization of the threat of fires at the open face;
- (D) minimization of odors; and
- (E) shedding precipitation.

**If the special waste meets these requirements KDHE will authorize its use as alternate daily cover.**

When using special waste as an alternate daily cover, the waste can only be used on inner slopes and lifts and the special waste must be tracked in the daily log when used.

Plumb Thicket employs the use of earthen berms to control run-on and run-off on all daily lifts. This ensures any moisture (leachate/rain water) that comes into contact with the daily waste is contained. Any special waste approved for alternate daily cover is stockpiled within the bermed area as well as the geomembrane lined area of the site.

## **ITEMS OF BUSINESS**

### **2) *Proposed Charter Resolution - Roadway Improvement:***

Attached is proposed Charter Resolution related to improvement of roads in unincorporated areas.

Matter was offered at the Work Session of May 18th.

A Charter Resolution from a three (3) member board will require a unanimous vote for approval.

A Charter Resolution must be published two (2) consecutive weeks.

A Charter Resolution has a protest period of sixty (60) days following the 2nd publication before it can become effective.

*Staff suggests motion to approve Charter Resolution \_\_\_\_\_ Exempting Harper County from provisions of KSA 68-728 and 68-729 related to improvement of roads in unincorporated areas and providing substitute and additional provisions.*

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GILMORE & BELL, P.C.  
05/12/2009

(Published in *THE* [\_\_\_\_\_] , on May \_\_, 2009 and June \_\_, 2009.)

## CHARTER RESOLUTION NO. \_\_\_\_

### **A CHARTER RESOLUTION EXEMPTING HARPER COUNTY, KANSAS FROM THE PROVISIONS OF K.S.A. 68-728 AND 68-729 RELATING TO THE IMPROVEMENT OF ROADS IN AREAS OF COUNTIES LOCATED OUTSIDE THE INCORPORATED LIMITS OF ANY CITY IN THE STATE OF KANSAS; PROVIDING SUBSTITUTE AND ADDITIONAL PROVISIONS RELATING THERETO.**

**WHEREAS**, K.S.A. 19-101 *et seq.* provides that counties may exercise certain home rule powers, including adopting charter resolutions which exempt such counties from acts of the Kansas legislature, subject to certain restrictions contained in K.S.A. 19-101a; and

**WHEREAS**, Harper County, Kansas (the "County"), is a county within the meaning of the provisions of K.S.A. 19-101 *et seq.*; and

**WHEREAS**, K.S.A. 68-728 and 68-729 (the "Existing Statutes") are part of an act of the Kansas legislature relating to the improvement of roads in areas of counties located outside the limits of any incorporated within the state of Kansas (the "State"); and

**WHEREAS**, the Existing Statute is applicable to the County but is not uniformly applicable to all counties within the State; and

**WHEREAS**, the Board desires, by charter resolution, to exempt the County from the provisions of the Existing Statutes, to provide substitute and additional provisions therefore; and

**WHEREAS**, such proposed action is not restricted or limited by the provisions of K.S.A. 19-101a.

**THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF HARPER COUNTY, KANSAS:**

**SECTION 1. Exemption.** The County is hereby exempted from the provisions of the Existing Statutes, and shall be governed by the following substitute and additional provisions contained in this charter resolution.

**SECTION 2. Definitions.** For the purpose of this Charter Resolution, the terms defined in this Section shall have the meanings ascribed to them as follows:

(a) **"Acquire"** means the acquisition of property or interests in property by purchase, gift, condemnation or other lawful means, including improvements authorized to be constructed under this Charter Resolution, and may include the acquisition of existing property and improvements already owned by the County and previously financed by the County, such acquisition to constitute a refunding of such prior financing and no additional refunding authority

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shall be required.

- (b) **"Benefit District"** means:
  - (1) An area deemed by the Board to be benefited by an Improvement and subject to special assessment for all or a portion of the cost of the Improvement; or
  - (2) an area described in a petition submitted in accordance with subsection (b) or (c) of **Section 4** hereof, and subject to a special assessment for all or a portion of the cost of the Improvement.
- (c) **"Board"** means the Board of County Commissioners, Harper County, Kansas.
- (d) **"Bonds"** means general obligation bonds or special obligation bonds.
- (e) **"Consultant"** means engineers, architects, planners, attorneys and other persons deemed competent to advise and assist the Board in planning and making of Improvements.
- (f) **"Cost"** means all costs necessarily incurred for the preparation of preliminary reports, the preparation of plans and specifications, the preparation and publication of notices of hearings, resolutions and other proceedings, necessary fees and expenses of consultants and interest accrued on borrowed money during the period of construction together with the cost of land, materials, labor and other lawful expenses incurred in planning and doing any Improvement and may include a charge of not to exceed 5% of the total cost of an Improvement or the cost of work done by the County to reimburse the County for the services rendered by the County in the administration and supervision of such Improvement by its general officers, any necessary reserves and where property and Improvements already owned by the County and previously financed by the issuance of revenue bonds is acquired the cost shall include not to exceed the principal amount of such outstanding revenue bonds plus the amount of matured interest, interest maturing until said revenue bonds are retired, and the amount of any call premium or purchase premium required.
- (g) **"County"** means Harper County, Kansas.
- (h) **"Entity"** means and includes, but shall not be limited to, any municipality, any natural person, corporation, partnership, limited liability company, limited liability partnership, trust, association or other form of business or charitable organization.
- (i) **"Improvement"** means any type of improvement or reimprovement of a prior improvement made under authority of this Charter Resolution, including, but not limited to opening, constructing, widening and extending public Roads and otherwise to improve paving and other surfacing, grading and drainage improvements for Roads and related gutters, curbs, sidewalks, crosswalks, driveway entrances and structures, including traffic control devices, off-street parking facilities, works incidental thereto, and service connections from sewer, water, gas and other utility mains, conduits, or pipes necessarily lying within right-of-way of Roads within the County; construction or reconstruction of the paving, macadamizing, grading or drainage of any public Road; the acquisition of property or interest in property when necessary for any of the purposes authorized by this Charter Resolution; improvements to Road lighting systems; improvements to any road by landscaping; improvements to vehicle and pedestrian bridges, overpasses and tunnels; and improvements to retaining walls and area walls on public ways or land abutting thereon, and the singular may include the plural.

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(j) **“Newspaper”** means the official designated newspaper of the County, or if there is no newspaper published therein or no official newspaper, a newspaper of general circulation in the County authorized to publish legal notices.

(k) **“Road”** means street, highway, road, alley, avenue, boulevard or other public way or any part thereof.

(l) **“To improve”** means to construct, reconstruct, maintain, restore, replace, renew, repair, install, equip, extend or to otherwise perform any work which will provide a new Road or enhance, extend or restore the value or utility of an existing Road.

**SECTION 3. Improvement of Roads in areas outside of cities.** The Board is hereby authorized to make, or cause to be made, Improvements which confer a special benefit upon property within a definable area of the County all or a portion of which is platted and laid off into lots and blocks within the County and outside the corporate limits of any incorporated city within the County, and may levy and collect special assessments upon property in the area deemed by the Board to be benefited by such Improvement for the special benefits conferred upon such property by any such Improvement and to provide for the payment of all or any part of the cost of the Improvement out of the proceeds of such special assessments as hereinafter provided. Such work or Improvements may include the acquisition of property or interest in property when necessary for any of the purposes authorized by this Charter Resolution and any Improvement authorized to be constructed under this Charter Resolution. Any two or more types of Improvements may be included in one proceeding and constructed and financed as one Improvement.

**SECTION 4. Initiation of Improvement; notice and hearing, when; resolution determining advisability.**

(a) Before any work is ordered or authorized for an Improvement, the Board shall by resolution direct and order a public hearing on the advisability of the Improvement. Except as provided in subsections (b), (c) and (d) hereof, notice of the hearing shall be published in a Newspaper at least one time not less than ten days prior to the date of the public hearing. Notice shall be given as to:

- (1) Time and place of hearing;
- (2) general nature of the proposed Improvements;
- (3) the estimated or probable cost;
- (4) extent of the proposed Benefit District to be assessed;
- (5) the proposed method of assessment; and
- (6) proposed apportionment of cost, if any, between the Benefit District and the County-at-large.

The hearing may be adjourned from time to time and until the Board shall have made findings by resolution as to the advisability of the Improvement, the nature of the Improvement, the estimated cost, the boundaries of the Benefit District, the method of assessment and the apportionment of cost, if any, between the Benefit District and the County-at-large, all as finally determined by the Board, except that the area of the Benefit District to be assessed may be less than, but shall not exceed, the area proposed to be assessed as stated in the notice of hearing without giving notice and holding a new hearing on the Improvement. After final adjournment of the public hearing, the Board may proceed to order the Improvement as provided in **Section 6** hereof.

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(b) An Improvement may also be commenced upon a petition found sufficient by the provisions of this subsection. Petitions for any Improvement authorized to be made under the provisions of this subsection shall be filed with the County Clerk and shall set forth:

- (1) The general nature of the proposed Improvement;
- (2) the estimated or probable cost;
- (3) the extent of the proposed Benefit District to be assessed;
- (4) the proposed method of assessment;
- (5) the proposed apportionment of cost, if any, between the Benefit District and the County-at-large; and
- (6) a request that such Improvement be made without notice and hearing as required in subsection (a) of this Section.

Names may not be withdrawn from the petitions by the signers thereof after the Board commences consideration of the petitions or later than seven days after such filing, whichever occurs first, except that the petitions shall contain a notice that the names of the signers may not be withdrawn after such a period of time. Such petitions may be found sufficient if signed by either:

- (A) A majority of the resident owners of record of property liable for assessment under the proposal;
- (B) the resident owners of record of more than one-half of the area liable for assessment under the proposal; or
- (C) the owners of record (whether resident or not) of more than one-half of the area liable to be assessed under the proposal.

(c) As an alternative to a petition submitted in accordance with subsection (b) of this Section, an Improvement may also be commenced upon a petition submitted by an Entity or Entities willing to pay the costs of a proposed Improvement, found sufficient by the provisions of this subsection. Petitions for any Improvement authorized to be made under the provisions of this subsection shall be filed with the County Clerk and shall set forth:

- (1) The general nature of the proposed Improvement;
- (2) the estimated or probable cost;
- (3) the extent of the proposed Benefit District to be assessed;
- (4) the proposed method of assessment;
- (5) the proposed apportionment of cost, if any, between the Benefit District and the County-at-large; and
- (6) a statement that the signers of the petition, in the aggregate, are the owners of 100% of the property or properties proposed to be included in the Benefit District, acknowledge that the:
  - (A) the petition is one submitted pursuant to subsection (c) of this Charter Resolution;
  - (B) the proposed Benefit District does not include all properties which may be deemed to benefit from the proposed Improvement; and
  - (C) signers' names may not be withdrawn from the petition by the signers thereof after the Board commences consideration of the petition or later than seven days after such filing, whichever occurs first; and
- (7) a request that such Improvement be made without notice and hearing as

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required in subsection (a) of this Section.

(d) Upon filing of a petition pursuant to subsection (b) or (c) of this Section, the Board may make findings by resolution as to the advisability of the Improvement, the nature of the Improvement, the estimated or probable cost, the boundaries of the Benefit District, the method of assessment and apportionment of cost, if any, between the Benefit District and the County-at-large, all as determined by the Board. With respect to any petition filed pursuant to subsection (c), such findings shall include a finding that the Benefit District does not include all the property which may be deemed to be benefited by the proposed Improvement and the persons who signed such petition are willing to pay the costs of the proposed Improvement as set forth in the petition.

Thereupon the Board may proceed without notice and hearing to order the Improvement as provided in **Section 6** hereof, except that no protest shall be received as provided in such Section. The area of the Benefit District finally determined by the Board to be assessed may not exceed the district proposed in the petition unless notice is given and a hearing held as provided in subsection (a) of this Section, in which instance the proceedings shall be subject to protest as in other cases.

(e) Whenever adjoining parallel Roads have been improved, and the County proposes to improve the intervening connecting Road to the same extent as the Roads to be connected, or when two portions of any Road have been improved and an intervening portion not exceeding two blocks has not been improved, and the County proposes to improve such intervening portion to the same extent as the improved portions, the Board may proceed without notice and hearing as provided in subsection (a) of this Section or receipt of a petition as provided in subsections (b) or (c) hereof, to order the Improvements, make findings by resolution as to the advisability of the Improvement, the nature of the Improvement, the estimated or probable cost, the boundaries of the Benefit District, the method of assessment and apportionment of cost, if any, between the Benefit District and the County-at-large. No protest against the Improvement as provided in **Section 6** hereof shall be permitted.

(f) Any resolution establishing a Benefit District under the terms of this Resolution shall be filed with the Register of Deeds in accordance with K.S.A. 12-153, as amended.

**SECTION 5. Preparation of preliminary plans; reports; plans and specifications; estimates; bids.** Before the adoption of a resolution ordering a hearing on the advisability of any Improvement, as provided in **Section 4** hereof, the Board may secure a feasibility report to assist in the determination of whether an Improvement should be made as proposed or otherwise, or in combination with other Improvements authorized by this act, together with a preliminary estimate of the cost of the Improvement or combination of Improvements. The report may be prepared by qualified officers of the County or by Consultants. The Board may also take such other preliminary steps prior to the hearing or before ordering any Improvement or letting any contract, including among other things, the preparation of plans and specifications, estimates of costs of the Improvement and the advertisement for bids thereon, as will in its judgment be of assistance in determining the feasibility and desirability of the Improvement.

**SECTION 6. Action by Board, Protest.** The Board may, by a majority vote of the entire members of the Board, at any time within six months after the final adjournment of the hearing on the advisability of making the Improvements as provided in **Section 4** hereof, adopt a resolution authorizing the Improvement in accordance with the finding of the governing body upon the advisability of the Improvement, as provided in **Section 4** hereof, and amendments thereto, which shall be effective upon publication once in the Newspaper, except that the Improvement shall not

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be commenced if, within 20 days after publication of the resolution ordering the Improvement, written protests signed by both 51% or more of the resident owners of record of property within the Benefit District and the owners of record of more than half of the total area of such Benefit District are filed with the County Clerk. The genuineness of the signature and addresses of all signers of each protest shall be verified by some signer of such protest. The Board shall be judge of the sufficiency of any protest and its decision shall be final and conclusive, except that names may be withdrawn from any protests by the signers at any time before the Board shall convene its meeting to determine the sufficiency thereof.

## **SECTION 7. Apportionment of Costs.**

(a) The Board may pay such portion of the cost of the Improvement as the Board may determine, but not more than sixty percent (60%) of the total cost thereof. The share of the cost to be paid by the County-at-large shall be paid in the manner provided by **Section 13** hereof.

(b) If any property deemed benefited shall by reason of any provision of law be exempt from payment of special assessments therefor, such assessment shall, nevertheless, be computed and shall be paid by the County-at-large.

## **SECTION 8. Assessment plan; classifications, formulae and methods of assessment.**

(a) The portion of the cost of any Improvement to be assessed against the property in the Benefit District as determined in **Section 4** hereof, shall be apportioned against the property in accordance with the special benefits accruing thereto by reasons of such Improvement or in accordance with the provisions of any petition submitted pursuant to subsection (b) or (c) of **Section 4** hereof. The cost may be assessed equally per front foot or per square foot against all lots and pieces of land within such Benefit District or assessed against such property according to the value of the lots and pieces of land therein as determined by the Board with or without regard to the buildings and improvements thereon or as set forth in the petition requesting such Improvement or the cost may be determined and fixed on the basis of any other reasonable assessment plan which will result in imposing substantially equal burdens or shares of the cost upon property within the Benefit District similarly benefited. The Board may from time to time determine and establish by resolution reasonable general classifications and formulae for the apportionment of the cost between the County and the area to be assessed, and the methods of assessing the special benefits, for various classes of Improvements.

(b) This section shall not be construed to limit the adoption of any assessment plan for any Improvement that recognizes varying benefit levels to property within the Benefit District and imposes assessments in relation thereto.

## **SECTION 9. Assessment rolls; notice and hearing.**

(a) As soon as the total cost of any Improvement is determined, or the Board has approved an estimate of the total cost of the Improvement in the case of assessments to be levied as determined in the manner set forth in the resolution as to advisability of the Improvement provided for in **Section 4** hereof, an assessment roll shall be prepared.

(b) The proposed assessment roll shall be filed with the County Clerk and be open for public inspection. The County Clerk, at the direction of the Board, shall publish notice that the



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Board will meet to consider the proposed assessments. Such notice shall be published in a Newspaper at least once not less than 10 days prior to such meeting of the Board and shall state the date, time and place of such meeting, and the general nature of the Improvement, and its cost, the extent of the Benefit District proposed to be assessed, and that written or oral objections will be considered at such a hearing. At the same time, the County Clerk shall mail or cause to be mailed, to the owners of the property made liable to pay the assessment, at their last known post office address, a notice of the hearing and a statement of the cost proposed to be assessed; against the land so owned and assessed; but the failure of any owner to receive such notice shall not invalidate the proceedings.

(c) As an alternative to determining the amount of the assessments after the total cost of the Improvement has been determined, the Board, prior to commencement of construction of the Improvement, may determine the maximum amount of the assessments against each lot, piece or parcel of land deemed to be benefited by the Improvement based on the approved estimate described in subsection (a) of this Section. Such determination shall be made in the manner provided in the resolution adopted pursuant to **Section 4** hereof. Following such determination, an assessment roll shall be prepared and filed with the County Clerk and a hearing shall be called and held to consider the proposed assessments as provided by subsection (b) of this Section. The notice required by subsection (b) of this Section shall include a statement advising the owners of property included in the Benefit District that the owners may bring an action pursuant to **Section 11** hereof. The statement shall notify such owners of the thirty-day time period in which such action may be filed and shall list the matters which may be challenged pursuant to **Section 11** hereof. The failure of any owner to receive the notice required by this section shall not invalidate the proceedings. Such assessments shall be levied in the manner provided by **Section 10** hereof. The Board shall not be precluded from levying supplemental assessments as authorized by and for the reasons stated in **Section 12** hereof. If the final cost of the completed Improvement is less than the maximum amount of the assessment determined under this subsection, the Board shall adjust the assessments to reflect the cost of the completed Improvement.

**SECTION 10. Levy of assessments; interest rates; payment in full, when; payments by taxing units.** At such meeting, or at any adjournment thereof, the Board shall hear and pass upon all such objections to each proposed assessment, if any, and may amend the proposed assessments as to any parcels, and thereupon by resolution levy the same as the special assessments against the lands described in the assessment roll. The assessments, with accrued interest, shall be levied as a special tax upon the property included therein concurrent with general property taxes, and shall be payable in not more than 20 installments, as the Board determines. The first installment shall be payable at the time of the first payment of general property taxes following the adoption of the assessment resolution unless such resolution was adopted and certified too late to permit its collection at such time. All assessments shall bear interest at such rate as the Board determines, not to exceed the maximum rate of interest prescribed by K.S.A. 10-1009, and amendments thereto.

Interest on the assessment between the effective date of the resolution levying the assessment and the date the first installment is payable, but not less than the amount of interest due during the coming year on any Bonds issued to finance the Improvement, shall be added to the first installment. The interest for one year on all unpaid installments shall be added to each subsequent installment until paid. All of the installments, together with the interest accrued or to accrue thereon, may be certified to the County Clerk in one instrument at the same time, and such certification shall be good for all of the installments, and the interest thereon payable as

# PROPOSED

special taxes. Such assessment shall be collected and paid over to the County Treasurer in the same manner as other taxes of the County are collected and paid. The owner of any property so assessed may at any time prior to a date which shall be fixed by the Board pay the whole of the assessment against any lot or parcel with interest accrued to the date of payment to the County Treasurer, or designee. The Board and the governing body of any city, school district or other taxing unit, respectively, shall provide for and pay the amount assessed against property owned by them as provided by K.S.A. 79-1808, and amendments thereto, or they may pay the amounts so assessed from their general funds.

**SECTION 11. Limitation on action to set aside assessments.** No suit to set aside the said assessments or otherwise question the validity of the proceedings shall be brought after the expiration of thirty (30) days from the publication of the resolution fixing said assessments.

**SECTION 12. Supplemental assessments; reassessments and new assessments, when.**

(a) The Board may make supplemental assessments to correct omissions, errors or mistakes in the assessment relating to the total cost of the Improvement. In the event that a proposed supplemental assessment is in excess of 10% of the original assessment so levied, the Board shall conduct a public hearing as provided for in the original assessment prior to considering such supplemental assessment.

(b) When an assessment is, for any reason whatever, set aside by a court of competent jurisdiction as to any parcel or parcels of land, or in event the Board finds that the assessment or any part thereof is excessive or determines on advice of counsel in writing, that it is or may be invalid for any reason, the Board may make a reassessment or a new assessment as to such parcel or parcels.

**SECTION 13. Cost of Improvements, how paid; limitations.** The total cost of any Improvement made under the authority of this Charter Resolution shall be paid as follows:

(a) All costs made payable by the County-at-large which may be paid from general funds legally available for such purposes or from other general improvement funds available for such purposes may be paid from such funds.

(b) Costs payable by special assessments which have been paid in full prior to the date set by the Board as provided in **Section 10** hereof or as may be modified by **Section 12** hereof, shall be paid from assessments so collected.

(c) Costs payable by special assessments, to be paid in installments, and costs made payable by the County-at-large and not payable from available general funds, or other general improvement funds available to the Board for such purpose, shall be paid by the issuance and sale of Bonds of the County as provided by law.

(d) During the progress of any Improvement the Board may issue temporary notes of the County as provided by law or may issue special obligation temporary notes of the County to pay such costs, and upon completion of the work, Bonds of the County shall be issued and sold as provided hereinbefore.

(e) The costs of more than one (1) Improvement may be paid from a single issue and

# PROPOSED

sale of Bonds without other consolidation of the proceedings prior to the Bond issue.

(f) Any County may also issue special obligation bonds to refund any Bonds and repay any temporary notes previously issued under this Charter Resolution.

(g) None of the debt limits prescribed by law related to the County shall be applicable to any Bonds issued pursuant to this Charter Resolution.

**SECTION 14. Bond election.** The Board proposing to issue general obligation bonds of the County for payment of any portion of the costs of any Improvement authorized by this Charter Resolution may by resolution submit the question of issuing such bonds at a general or special election called for that purpose, and if such election be called, no such bonds shall be issued until and unless a majority of the electors voting on the proposition shall have given their approval to the issuance of such bonds.

**SECTION 15. Separate Improvement funds; uses; balances.** A separate fund or account shall be created in the County treasury for each Improvement or combination of Improvements and such fund or account shall be identified by a suitable title. The proceeds from the sale of Bonds and temporary notes and any other moneys appropriated thereto by the Board shall be credited to such fund or account. Such fund or account shall be used solely to pay the costs incurred in the making of the Improvement, and upon the completion of the Improvement, the balance thereof (if any) shall be: (a) transferred and credited to the County bond and interest fund to retire any temporary notes issued for the Improvement; (b) used to reduce the amount of any Bonds issued to finance the Improvement; or (c) to reimburse the County for any advances deposited into such fund or account.

**SECTION 16. Non-exclusivity.** The provisions of this Charter Resolution shall not be the exclusive method of financing Improvements within the boundaries of the County.

**SECTION 17. Deferral of Assessments.** The Board may provide for the deferral of payment of any special assessment levied pursuant to **Section 10** hereof, or as may be modified by **Section 12** hereof, if the owner(s) of any property liable for such special assessment meets criteria established by the Board. Such criteria shall include provisions relating to the ownership of the property, occupancy of the property, size of the property and income of such owner(s).

**SECTION 18. Assessment of benefit fee against property not in original Benefit District.** Whenever the construction of any Improvement is initiated by petition pursuant to **Section 4** hereof, the Board may require the owners of property, which benefits from such Improvement but which was not included within the original Benefit District, to pay a benefit fee at the time the owners of such property request, by petition, to construct a new Road or improve an existing Road that will be or is connected to the prior Improvement and thereby benefited by such prior Improvement. The amount of such benefit fee shall not exceed the amount of assessment, including principal and interest, which would have been levied against the property had it been included in the original Benefit District. The benefit fee shall be assessed only against the property described in the petition requesting the construction of Roads that will be connected to such prior Improvement. Unless otherwise provided by the Board, such benefit fee shall be due and payable at the conclusion of construction of the Road described in the petition, and shall be subject to the same interest, as assessments against property originally included in the Benefit District for such prior Improvement. Any benefit fees paid hereunder shall be applied: (a) To the remaining principal and outstanding interest on the bonds issued to finance the prior Improvement, with a resulting pro rata reduction of the assessments against property originally

# PROPOSED

included in the Benefit District for such prior Improvement; or (b) the County general bond and interest fund if any of the cost of the prior Improvement was paid in part by the County-at-large.

**SECTION 19. Disclosure by seller; acknowledgment.** As part of the contract or prior to the execution of a contract for the sale of any real property which is subject to a special assessment or fee pursuant to this Charter Resolution, the seller of the property shall disclose to the buyer that the property is subject to such special assessment or benefit fee or located in an Benefit District created pursuant to this Charter Resolution. If the amount of such special assessment or fee is unknown, the seller shall make a good faith estimation of such amount. The seller of the property shall obtain a written acknowledgment from the buyer that the buyer is aware of such assessment or fee or that the property is located in a Benefit District created pursuant to this Charter Resolution.

**SECTION 20. Severability.** If any provision or section of this Charter Resolution is deemed or ruled unconstitutional or otherwise illegal or invalid by any court of competent jurisdiction, such illegality or invalidity shall not affect any other provision of this Charter Resolution. This Charter Resolution shall be construed and enforced as if such illegal or invalid provision had not been contained herein.

**SECTION 21 Effective Date.** This Charter Resolution shall be published once a week for two consecutive weeks in the official County Newspaper and shall take effect sixty (60) days after final publication unless a petition signed by a number of electors of the County equal to not less than two percent (2%) of the number of electors who voted at the last preceding November general election or one hundred electors, whichever is greater, shall be filed in the office of the County Clerk demanding that this Charter Resolution be submitted to a vote of the electors, in which event this Charter Resolution shall take effect when approved by a majority of the electors voting at an election held for such purpose.

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PROPOSED

**ADOPTED AND APPROVED** by the Board of County Commissioners of Harper County, Kansas, on May \_\_, 2009.

**BOARD OF COUNTY COMMISSIONERS  
OF HARPER COUNTY, KANSAS**

(Seal)

\_\_\_\_\_  
Chairman

ATTEST:

\_\_\_\_\_  
Commissioner

\_\_\_\_\_  
County Clerk

\_\_\_\_\_  
Commissioner

APPROVED AS TO FORM:

\_\_\_\_\_  
County Counselor

## **ITEMS OF BUSINESS**

### **3) *Board Appointment - South Central Kansas Community Corrections:***

Attached is request from David Wiley of South Central Kansas Community Corrections requesting a Board appointment.

## South Central Kansas Community Corrections Agency

119 South Oak

PO Box 8643

Pratt, KS 67124

620-672-7875 office

620-672-7338 fax

*David A. Wiley, Director*

*Tammy McGuire, Office Manager*

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Harper County Board of Commissioners  
201 N. Jennings  
Anthony, Kansas 67003

Ref: Juvenile Correctional Advisory Board Members Appointments

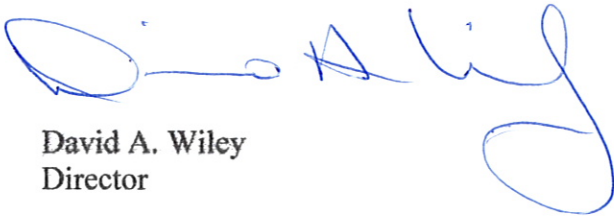
Dear Commissioners:

The Juvenile Justice Authority has brought it to my attention that the juvenile advisory board that represents the 30<sup>th</sup> Judicial District has not been meeting state statutes in regards to membership appointments and termination dates. The statutes are clear as to who is to be on the board and their length of assignment. This information can be found in KSA 75-7044.

The board is to have members that represent the counties in the service area. This requirement can be found in 75-7044. I am respectfully requesting that you appoint a Harper County Commissioner to a one (1) year term on the juvenile correctional advisory board. The appointment should be effective January 1, 2010 and expire December 31, 2011. Currently, Bill McIntire is the commissioner from Harper County on the Board.

Please let me know by letter which commissioner has been appointed. Thank you for your time and attention to this matter.

Sincerely:

A handwritten signature in blue ink, appearing to read "David A. Wiley", with a large, stylized loop at the end.

David A. Wiley  
Director

## **ITEMS OF BUSINESS**

### ***4) Logan County Request for Support - Opposing Designation of Endangered Species:***

Letter from Logan County Commissioners attached.



May 18, 2009

Dear Commissioners,

We request your support in helping mobilize opposition to a decision to list the Black-tailed Prairie Dog as an endangered species. United States Fish & Wildlife Service is considering a petition to list the species, and a decision is expected by December, 2009. We have been told by a lead agent in this listing process that there is already a record of over 30,000 pages accumulated regarding listing.

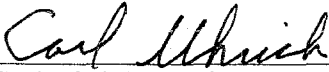
Listing the prairie dog will be disastrous to our local economy. Kansas is one of eleven states which the listing will affect.

Six months ago Logan County asserted our right to coordination with federal agencies. We took the action in order to gain a seat at the table with Fish & Wildlife to influence decisions regarding the release of Black-footed ferrets in our county. Fish & Wildlife has attended three coordination meetings and we have made real progress in continuing our program of prairie dog control even in the presence of the endangered ferrets, and now are reaching agreement to establish a beginning level of federal control of prairie dogs on the ferret release sites.

We have seen coordination work and we believe it can help us fight listing of the prairie dogs as endangered. We ask your support. We ask that you act quickly to assert your coordination rights with the federal agencies. If you join us in this effort, together we can organize an active resistance to the proposed listing.

We have enclosed a copy of the resolution by which we asserted coordination. We urge you to consider joining us in a coordinated effort to resist listing.

Cordially,

  
Carl Uhrich, Chairman

  
Robert "Nick" Scott, Member

  
Clint Kvasnicka, Member

Enc



**RESOLUTION NO. \_\_\_\_\_**

**WHEREAS,** \_\_\_\_\_ County is aware that a petition has been filed urging the listing of the Black-tailed Prairie Dog as an endangered species,

**WHEREAS,** the Board of \_\_\_\_\_ County Commissioners have the obligation and responsibility to represent the interests of the people, and the interest of \_\_\_\_\_ County as a whole in economic stability, a sound environment, the local police powers left to the County and the people under the 10<sup>th</sup> Amendment to the United States Constitution, and to the general health, safety and welfare of the citizens of the County,

**WHEREAS,** \_\_\_\_\_ County has the authority to serve the interests of its citizens under the Endangered Species Act, particularly but not exclusively to Section 4 of the Act, by requiring the United States Fish and Wildlife Service to consult with and coordinate with the Board of County Commissioners prior to any act of placing such species into the county,

**WHEREAS,** \_\_\_\_\_ County is aware that Fish and Wildlife is meeting with other commissioners currently in coordinated fashion as contemplated in the regulations issued by the Council on Environmental Quality which sets NEPA rules which will apply to any listing action, some of those other commissioners being in Logan County, Kansas, Owyhee County, Idaho, Glen Lake Irrigation district in Montana, Modoc County in California, and soon with Fremont County, Wyoming;

**WHEREAS,** \_\_\_\_\_ County is aware that Secretary Salazar made clear on the day that the Owyhee Public Lands Management Act was signed into law on March 30 of this year that this administration would work closely with local government;

**WHEREAS,** the Board of County Commissioners have an obligation to its citizens to exercise the local authority which is recognized by the Endangered Species Act, particularly but not exclusively in Section 4 of the Act,

**THEREFORE IT IS HEREBY RESOLVED** by the Board of \_\_\_\_\_ County Commissioners that this County is formally asserting its authority to insist on coordination with the United States Fish and Wildlife Service and any associated federal agency or state agency working with and in conjunction with Fish and Wildlife regarding the listing of the Black-tailed Prairie dog and regarding any other action taken in or contemplated in our County regarding species.

**IT IS FURTHER RESOLVED** that by executing this Resolution, \_\_\_\_\_ County serves notice on the Secretary of Interior and any and all persons and agencies under his jurisdiction, and on any other Cabinet member who has authority to act under the Endangered Species Act, of the existence of \_\_\_\_\_ County's policy against listing the Black-tailed Prairie Dog as endangered, when the facts show that by numbers and by resilience at the very least it does not need protecting as a species.

**IT IS FINALLY RESOLVED** that by executing this Resolution, \_\_\_\_\_ County serves notice to all the persons and agencies identified in the previous paragraph of this Resolution of their obligation under the Endangered Species Act to notify \_\_\_\_\_ County in advance of any planned action identified in this Resolution and to consult and coordinate with the county prior to any such planned action, and of the County's authority to insist upon such notice and consultation and coordination under Chapter 4 of the Endangered Species Act.

**SIGNED AND DATED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2009.**

BOARD OF COUNTY COMMISSIONERS:

\_\_\_\_\_ COUNTY, KANSAS

\_\_\_\_\_, Chairman

\_\_\_\_\_, Member

\_\_\_\_\_, Member

ATTEST: \_\_\_\_\_, County Clerk

**STAFF REPORT****HARPER COUNTY ROAD & BRIDGE**

Weekly County Commission Report May 11 – 15, 2009

**KENT STONEBRAKER-EAST FOREMAN**

1. Graders patrolling and smoothing up washouts. Trucks 216, 217 & 310 hauling shale to Rd 666-27, 761-J, Bridge's 666-28 & 761-J & culverts on 753-H & driveway entrance on Rd 676-15. Excavator 633 knocking down shale on Rd 666-27 & 761-J & Bridge's 666-28 & 761-J. Dozer 627 ripping shale at Short Shale Pit.
2. Trucks 216, 217, 310 & 317 hauling sand to Rd 759-Q. Dozer 627 ripping shale at Short Shale Pit. Graders patrolling and smoothing up washouts. Haul off old lumber from Anthony Shop to landfill. Wash Truck 310 so repair shop can check for electrical problem. Reinstall stop sign and post on Rd 744 ½-G, north end.
3. Trucks 216, 217, 310 & 317 hauling sand to Rd 759-Q, 694-27, 767-U&X, 747-R & 694-18. Dozer 627 ripping shale at Short Shale Pit. Graders patrolling and smoothing up washouts.
4. Trucks 216, 217, 310 & 317 hauling sand to Rd 767-U & V. Graders patrolling and smoothing up washouts. Trucks 216, 217, 310 & 317 hauling shale to new field entrance on Rd 765-A and to washout on Rd 666-30. Excavator cleaning silt pads and culverts on Rd 759-F. Trucks 216, 217, 310 & 317 spot sanding on Rd 757-D.
5. Trucks 216, 217, 310 & 317 hauling shale to Rd 668-30, 670-25, 759-H through J & culverts on Rd 664-25, 753-K & Bridge on road 678-26. Excavator 633 cleaning field entrance and removing and reinstalling drive entrance on Rd 759-F. Dozer 627 ripping shale at Short Shale Pit. Graders patrolling and smoothing up washouts.

**JIM THOMPSON-SHOP FOREMAN**

1. DOA '01 Chevrolet, service job-160,084 miles. #144 JD Mower, get ready for season. #100 '08 Ford, service job-32,035 miles. #350 JD Mower, get ready for season. #254 JD Mower, get ready for season.
2. #200 '08 Ford, replace rear brake pads-32,480 miles. #119 '06 Sterling, exhaust repair & lights. #310 '06 Sterling, check out tail lights.
3. #629 CAT D5M, replaced a/c hose & charged system. #352 JD 7610, replaced rear flasher assembly. Mowed shop yard. #155 JD 670D, service job-4,111 hours. #317 '95 Semi, replaced water pump belt.
4. #117 '94 Semi, service job- hub meter, 70,147 miles. #632 JD 160LC, service job-5,684 hours.
5. #156 JD 670D, service job-3,604 hours. #344 JD 770CH, service call-transmission problem. #344 JD 770CH, replaced drive line u-joints & service job-12555 hours.

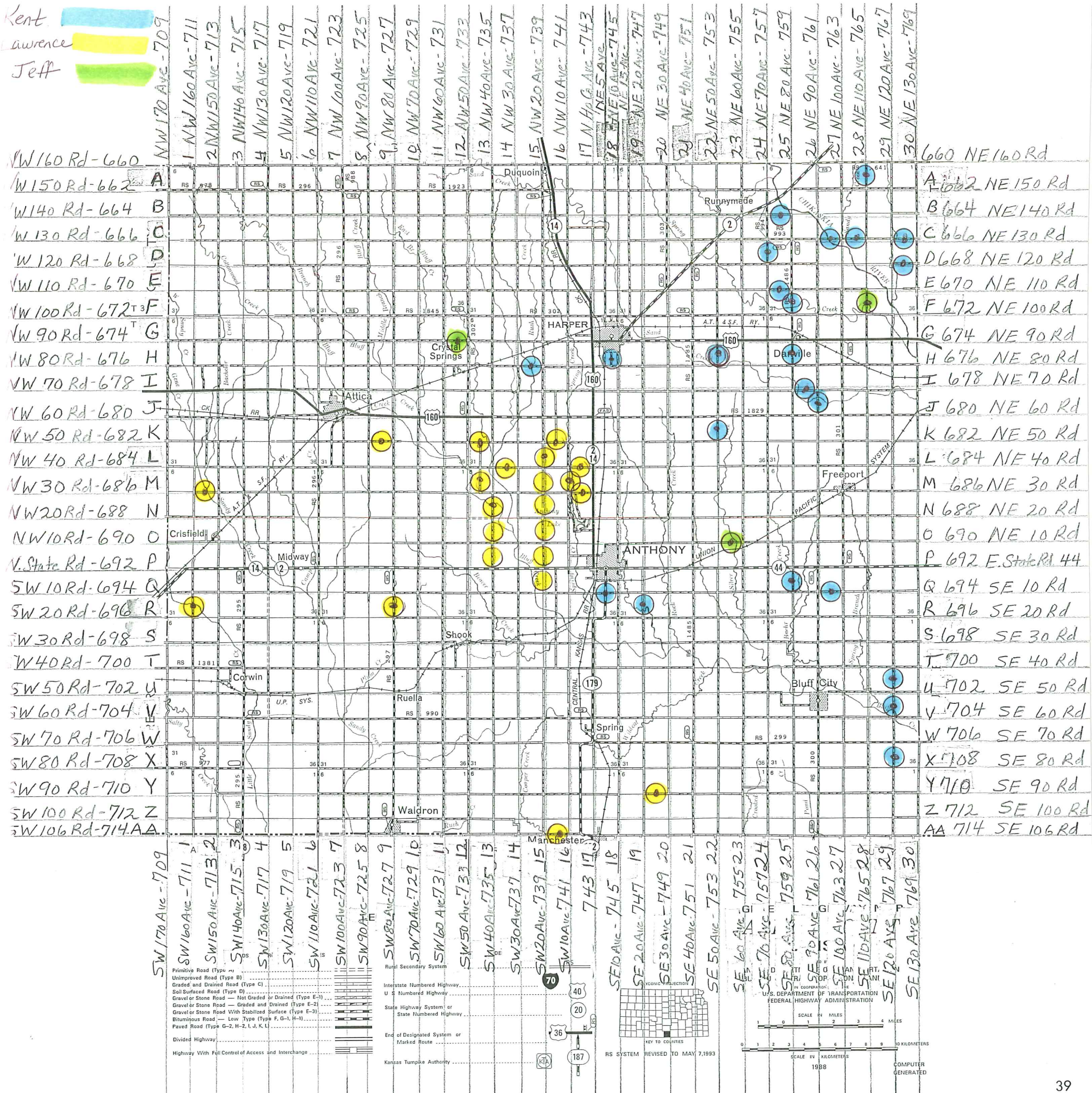
**LAWRENCE SMITH-WEST FOREMAN**

1. Fix washed out roads & bridge deck on 686-17, 682-9, 13 & 16, 684-14 & 17, 735-N through P, 739-L through N, 727-L & P, 734-M, 686-2, 741-M & 714-16. Put in pasture entrance on 710-20, 1-18"x40' new CMP & covered with shale. Put crossroad culvert on west end of 710-20. Took out old rotten steel pipe, installed 1-42"x29"x40' and cover with shale. Cleaned out ditches that were plugged to let water get to culverts. Used excavator to do the work. Put sand on Waldron Road over shale that we dug out soft spots, 727-R. Graders patrolling and spreading shale & sand. Called out to check bridge on 711-R. Holes in deck, need new planks.

**JEFF NULIK-BRIDGE FOREMAN**

1. Bridge 765-f, continue setting flooring.
2. Help Lawrence Smith & Kenny Goodenough load ½ tank for 674-12. Bridge 765-F, set flooring until rained out. Unload shipment of piling. Repair tires on 682 & 733.
3. Bridge 765-F, continue setting flooring.
4. Bridge 765-F, complete setting flooring.
5. Bridge 674-12, make repairs to ½ tank to prep for setting. Bridge 690-23 check grader/bridge damage.







*County Administrator*  
*Harper County, Kansas*

**KSA 68-543.** In counties under county unit road system; culverts over ditches in front of private property; costs by county or city; additional culverts or new entrances; costs to owner; procedures; penalty. (a) In counties having adopted the county unit road system, whenever it is necessary for a city or county to make a ditch along a public road in front of any property at such depth as will in the opinion of the officials in charge of such road obstruct access from such property with the public highway, it shall be the duty of the city engineer in cities and the county engineer in counties to cause to be constructed and maintained a substantial entrance over such ditch, so as to make a good, safe crossing. The city shall pay for such improvement on city streets and the county shall pay for such improvement on county roads. The cost of such culvert shall be paid by the owner of such property when such property does not have a culvert and the installation of such culvert is requested by the property owner or such property owner's agent. All moneys for the payment of such materials shall be deposited in the city general fund, in case of cities, or county road and bridge fund, in case of counties.

(b) Whenever any property owner shall request an additional culvert or new entrance on a county road, the culvert or new entrance may be installed by the county engineer and the cost charged to the property owner. The county engineer may require the property owner to deposit the estimated cost of such installation before installing and constructing the culvert or new entrance, or the property owner may install and construct such additional culvert or new entrance, but only after first obtaining approval of plans and permission to do so from the county engineer. Any such work shall be done by the owner subject to the direction and supervision of the county engineer.

(c) Whenever any property owner shall request an additional culvert or new entrance on a city street, the culvert or new entrance may be installed by the city engineer and the cost thereof charged to the property owner. The city engineer may require to property owner to deposit the estimated cost of such installation before installing and constructing the culvert or new entrance, or the property owner may install and construct such additional culvert or new entrance, but only after first obtaining approval of plans therefor and permission to do so from the city engineer. Any such work shall be done by the owner subject to the direction and supervision of the city engineer.

(d) It shall be a public offense for any property owner or other person to construct a culvert or entrance across any ditch along a public road without first having secured approval of the plans therefor and permission to do so from the county engineer for county roads or the city engineer for city streets. Any person who shall violate the provisions of this section shall, upon conviction thereof, be fined not less than \$50 nor more than \$100.

History: L. 1917, ch. 264, § 50; R.S. 1923, 68-543; L. 1953, ch. 303, § 1; L. 1957, ch. 363, § 1; L. 2004, ch. 38, § 2; July 1.

*Co Eng*R E S O L U T I O N

The Board of County Commissioners of Harper County, Kansas being in regular session this 9th day of July 19 90 and considering the matter of establishing a policy to regulate construction and responsibility of cost for ingress/egress to property located along County roads;

WHEREAS the cost of constructing entrances to property has increased dramatically without comparable increase in budget;

AND WHEREAS K.S.A. 68-543 regulates and empowers the Board of County Commissioners to establish policy governing installation of entrances to property from public highways;

AND WHEREAS the following policy has been recommended by the County Engineer and duly deliberated by the said Board of County Commissioners, to wit:

That all entrance construction to or from property located adjacent to Harper County roads and/or cost thereof be in accordance with K.S.A. 68-543 with the following provisions;

- A. That all requests for new entrances or changes be in writing on application forms provided by the County Engineer stating the reason for the request and that said application be reviewed and approved by the said Board prior to construction;
- B. That the width of all entrances shall be determined by reason of purpose and conditions at each specific location, and in those cases where culvert pipe is necessary for drainage purposes, the size and type of material shall be determined by the County Engineer, provided that no entrance culvert shall be less than 12 inches in the least dimension for oval pipe or 15 inch diameter for round pipe, and provided further that no entrance shall be less than 20 feet in width, and that all entrances to residences and/or farmsteads shall not be wider than 30 feet and entrances to all other agricultural, business or recreational use shall not be wider than 40 feet;
- C. That the said Board shall make a determination as to responsibility of cost for each entrance in accordance with law, provided, however, that all new entrances and/or changes across any then existing road ditch shall be at the expense of the owner of the property served, and provided further that not more than one entrance to each residence, farmstead, business, field or recreational use necessitated by county ditch work be constructed to replace any then existing entrance at county expense, and in all cases where the entrance is wider than 24 feet, the cost of the additional width shall be prorated against the total cost and be the responsibility of the property owner;
- D. That in all cases where the said Board has deemed the total or partial cost thereof to be the responsibility of the owner, sufficient funds to cover the estimated cost shall be on deposit with County Engineer/County Treasurer for the express purpose thereof before construction begins, with any deficit payable by the owner or any credit remaining returned to the owner;

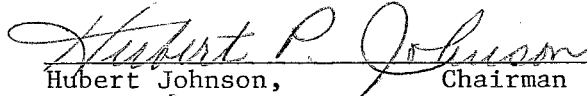
- E. That all entrance construction, and/or maintenance shall be supervised and accomplished only by Harper County Highway Department personnel or contractors duly qualified to perform such activity in the aforesaid county;

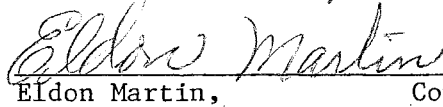
NOW THEREFORE BE IT RESOLVED that the above policy governing entrances to or from private property to or from county roads, after due deliberation and consideration, be hereby approved and adopted the day and year first written above;

BE IT FURTHER RESOLVED that the said Board hereby instructs and directs the County Engineer to cause the above said policy to be instituted and administered by the Harper County Highway Department.

IT IS SO ORDERED AND RESOLVED.


THE BOARD OF COUNTY COMMISSIONERS  
HARPER COUNTY, KANSAS

  
Hubert Johnson, Chairman

  
Eldon Martin, Commissioner

  
Van Ingram, Commissioner

ATTEST:

  
Tanis Williams, County Clerk



# KANSAS DEPARTMENT OF TRANSPORTATION

## COMMUNICATION SYSTEM INFRASTRUCTURE RADIO SHARED-USER FOR TALKGROUPS AGREEMENT

THE PARTIES to this Agreement are the Secretary of the Kansas Department of Transportation (Secretary) acting by and through the Kansas Department of Transportation (KDOT) and Harper County, (Shared-User), collectively referred to as the "Parties".

### **I. AUTHORITY FOR AGREEMENT**

- A. The Secretary has authority to enter into agreements to effect the purposes of K.S.A. 2007 Supp. 75-5073 *et seq.*
- B. The Secretary entered into a Memorandum of Understanding with the Kansas Highway Patrol (KHP) dated September 15, 2008 (MOU) which authorizes KDOT to enter into agreements with Public Safety Agencies as defined by K.S.A. 2007 Supp. 75-5073(e) to use KHP 800 MHz Talkgroups in accordance with this Agreement.
- C. Shared-User is a public safety agency as defined by K.S.A. 2007 Supp. 75-5073(e)

### **II. PURPOSE OF AGREEMENT**

The Secretary owns and maintains an 800 MHz P25 digital radio system (System), and is licensed by the Federal Communications Commission (FCC) to operate the System in Kansas. The Secretary allows certain users to share the System for public safety purposes.

### **III. DEFINITIONS**

- A. Talkgroup. A Talkgroup is an assigned radio channel that multiple users are given to conduct necessary communications.

### **IV. SECRETARY'S RESPONSIBILITIES:**

The Secretary will:

- A. Maintain a license pursuant to 47 C.F.R. §90.603(b) (2006).
- B. Keep this Agreement as part of the Site's records until the Agreement is terminated for any reason by either the Secretary or the Shared-User.
- C. Be responsible for the costs of maintaining and operating the System.

**V. SHARED-USER'S RESPONSIBILITIES:**

Shared-User shall:

- A. Meet and maintain the requirements of eligibility for a license under 47 C.F.R. §90.603, and 47 CFR Subparts B or C (2006).
- B. Be responsible for the cost of acquisition and maintenance of any additional radio equipment required to meet Shared-User's needs on the System.
- C. Ensure any equipment provided pursuant to Paragraph V.B. complies with KDOT technical and performance standards that are intended to provide for reliable operation and prevent interference with the System by other users.
- D. Report immediately to the Secretary or the Secretary's authorized representative any incident that causes loss of control of any radio communication equipment operating on any System Talkgroup.
- E. Not cross-connect any KHP Talkgroup or other user Talkgroup without prior written consent from KDOT and KHP.
- F. When using a KHP Talkgroup:
  - 1. Limit transmissions on KHP Operational Talkgroups (Car to Station) to emergency transmissions only.
  - 2. Limit transmission on KHP Event Talkgroups to emergency situations absolutely necessary for law enforcement related activities.
  - 3. Limit transmission on KHP Direct Talkgroups (Car to Car) to those situations absolutely necessary for law enforcement related activities.
  - 4. Not interfere with KHP Communication Center radio traffic.
  - 5. Use "plain language" for all transmissions during emergencies or critical incidents.
  - 6. Monitor its use of KHP Talkgroups and correct any inappropriate use.

**VI. PARTIES MUTUALLY AGREE:**

- A. The Secretary makes no warranty and assumes no liability with respect to the programming of the Shared-User's radio equipment and the operational capability of the System.
- B. To follow the operating requirements set forth in 47 C.F.R. § 90.403, and 47 C.F.R. Subpart N.

- C. The Secretary or the Secretary's authorized representative will install and maintain the equipment at the Site including that equipment described in Paragraph V.B and submit a statement to Shared-User for the Secretary's costs including, but not limited to, parts and labor. Shared-User shall submit payment to the Secretary within thirty (30) days of receipt of statement.
- D. The obligations of the Parties are subject to the terms of KDOT's FCC license and all federal, state or municipal laws or regulations now or hereafter enacted.

## **VII. MISCELLANEOUS PROVISIONS**

### **A. INDEMNIFICATION**

The Shared-User shall hold the Secretary and the Secretary's authorized representatives harmless from and indemnify these persons for all claims, suits, damages (whether property damages, personal injury damages, or economic damages), and costs (reasonable attorney's fees and defenses costs) resulting from Shared-User's operation or non-operation of the System. The Shared-User shall have no obligation to hold the Secretary or the Secretary's authorized representatives harmless from and indemnify these persons for the Secretary's or the Secretary's representatives' own negligence.

### **B. ACT OF GOD OR THIRD PARTY**

The Parties agree the Secretary shall assume no liability for any failure or impairment of the Site or System or any delay or interruption to the shared-use due to an Act of God or third parties.

### **C. TERMINATION**

1. This Agreement may be terminated for any reason upon thirty (30) days written notice by either Party.
2. Any violation of the terms and conditions set forth in Paragraph V.E or Paragraph V.F. shall cause immediate termination of this Agreement immediately without prior notice.
3. Any willful violation of FCC rules or regulations by Shared-User shall be considered a violation of this Agreement. Any such violation shall cause immediate termination of this Agreement without prior notice.
4. Use of KHP Talkgroups other than those listed herein by the Shared-User is prohibited and will be cause for immediate termination of this Agreement without prior notice.
5. Termination of the KDOT/KHP MOU shall be cause for immediate termination of this Agreement without prior notice.

### **D. AGREEMENT WITH KANSAS LAW**

This Agreement shall be subject to and construed according to the laws of Kansas.

E. NO REPRESENTATION OF AGENCY

By authorizing the use of KHP Talkgroups pursuant to the Memorandum of Understanding with the KHP, the Secretary is not representing nor assuming any agency relationship with KHP.

F. REPRESENTATION OF AUTHORITY

In signing this Agreement, the Parties and the individual person signing represent that the person signing has the authority and capacity to execute and legally bind the respective entity to this Agreement.

G. EFFECTIVE DATE

This Agreement shall be effective when either the Secretary or the Secretary's authorized representative signs the Agreement.

Date: \_\_\_\_\_

SHARED-USER

BY: \_\_\_\_\_

TITLE: \_\_\_\_\_

AGENCYNAME:\_\_\_\_\_

ADDRESS:\_\_\_\_\_

CITY:\_\_\_\_\_

Date: \_\_\_\_\_

SECRETARY OF TRANSPORTATION

BY: \_\_\_\_\_

TITLE: \_\_\_\_\_

# STAFF REPORT

## Harper County E.M.S.

### Ambulance Runs 5/14/09 – 5/20/09

STATION:	<u>WEEK</u>	<u>MONTH</u>	<u>YEAR</u>
<b>ANTHONY-</b>			
Medic 71:	4	45	92
Medic 72:	3	21	51
<b>ATTICA-</b>			
Medic 73:	4	20	46
<b>HARPER-</b>			
Medic 74:	2	46	96
Medic 75:	4	24	41
<b>TOTAL:</b>	<b>17</b>	<b>153</b>	<b>326</b>

### WEEKLY CALL SUMMERY

**MEDICAL RESPONSES:** 8

#### TRAUMA RESPONSES-

**MOTOR VEHICLE CRASHES:** 0

**OTHER TRAUMA:** 1

#### TRANSFERS-

**ALS (ADVANCED CARE):** 2

**BLS (BASIC CARE):** 3

#### STANDBYS-

**EAGLE MED:** 0

**FIRE DEPT ASSIST:** 1

**OTHER:** 1

**DAY CALLS (6AM-6PM):** 11

**NIGHT CALLS (6PM-6AM):** 6

## **WORK SESSION ITEMS**

### ***1) Bridge Inspections - McCormick - Manderville***

Request Motion to adjourn for on-site inspection of the McCormick and Manderville Bridges damaged in the recent storm.

FEMA had a crew in the County Friday, May 22nd inspecting and assessing damage from this storm.

### ***2) KDoT 5 Year Improvement Plan***

The County has until July 1st to submit a revised 5 year Plan for road improvements that qualify for federal assistance.



Mark Parkinson, Governor  
Deb Miller, Secretary

<http://www.ksdot.org>

BLP Memo 09 - 06

MEMO TO: Board of County Commissioners  
Harper County

DATE: May 18, 2009

SUBJECT: Request for the County to Prioritize its Federal Fiscal Year (FFY) 2010-2014  
Five-Year Plan Project List and Submit New Project Request

The current federal-aid transportation legislation known as the Safe, Accountable, Flexible, and Efficient Transportation Equity Act: A Legacy for Users (SAFTEA-LU) makes federal funds available to the State of Kansas for transportation improvements. The Kansas Department of Transportation (KDOT) is responsible for distribution of these funds to local agencies in the state.

We are requesting your assistance in updating your County Five-Year Plan of federal-aid projects. Attachment A provides a list of the projects approved in your current five-year plan. Please review the projects listed on the attachment to reaffirm your priorities and to make any adjustments for an additional year (FFY 2015) of funding that is available for your FFY 2010 – FFY 2014 Five-Year Plan. To assist you with the update, we are including Attachment B, “Instructional Guidance for Programming Highway Projects and Updating the Five-Year Plan”. **Please submit these forms to KDOT Bureau of Local Projects by July 1, 2009.**

Although the project listing is accurate as far as what is currently programmed, the letting dates are likely to change as we make adjustments to reduce the amount of over programming in FFY 2010 – FFY 2011. **The let dates for projects programmed beyond FFY 2013 have been omitted from the attachment. The BLP needs you to provide us with a reasonable let date for the construction project.**

All of the Obligation Authority (OA) dollars must be used within a Federal Fiscal Year or the dollars may be lost to the state. In previous years KDOT has absorbed any unused dollars that were available to the counties and then made an equal amount available to the counties in the following program year. With the end of our 1999 Comprehensive Transportation Program (CTP) occurring this year, we no longer have the financial flexibility to continue this practice. It is therefore necessary that the counties use all of the federal funds available to them each year. Any funds not used by the counties will be used by KDOT and will not be repaid. This practice will continue as we enter into our next state Comprehensive Transportation Program.



BLP Memo 09-06

Page 2

May 18, 2009

Following is a summary of the federal funding available to Harper County for FFY 2010-2014:

Estimated Carryover balance, end of FFY 2009:	\$136,771
Estimated Obligation Authority FFY 2010-2014 ( \$453,369 per year):	\$2,266,846
(Current policy allows counties to utilize six years of funds for programming their 5-year plans):	\$453,369
<b>Total Estimated Funds Available to County for programming Projects in FFY 2010-2014:</b>	<b>\$2,856,986</b>

**Please note: For those counties within Metropolitan Planning Organization (MPO) areas, your projects within the MPO area must be included on a Transportation Improvement Program (TIP) approved by the MPO. This office cannot process a "Request for a Construction Project" Form 1302 until that project is included in an approved TIP.**

In the future, if you would like to receive and submit your Five-Year Plan electronically, submit your request to Sondra Clark at [sondrac@ksdot.org](mailto:sondrac@ksdot.org) or David Marten II at [DaMarten@ksdot.org](mailto:DaMarten@ksdot.org).

We appreciate your assistance in helping KDOT develop a Five-Year Construction Program that ensures all federal funds are utilized and no dollars are lost to the state of Kansas. We hope our efforts to develop a realistic program will enable you to plan for local matching funds and project development activities. Please contact me at (785) 296-3861 or Sondra Clark at (785) 296-0441 if you have any comments or questions.

Sincerely,



Ronald J Seitz, P.E., Chief  
Bureau of Local Projects

C: Office of County Engineer w/att.  
Dan Scherschligt, P.E., Director, Division of Engineering and Design  
Chris Herrick, P.E., Director, Division of Planning and Development  
Dennis Slimmer, P.E., Chief, Bureau of Transportation Planning  
File

**BUREAU OF LOCAL PROJECTS**

Ronald J. Seitz, P.E., Chief

Dwight D. Eisenhower State Office Building

700 S.W. Harrison Street; Topeka, KS 66603-3745 • (785) 296-3861 • Fax: (785) 296-2079

Hearing Impaired - 711 • e-mail: [publicinfo@ksdot.org](mailto:publicinfo@ksdot.org) • Public Access at North Entrance of Building



**FUND CLASS:**

STP = Construction Cost X 0.80 X 1.15  
 BRO or BRS = Construction Cost X 0.80 X 1.15  
 SAF = Construction Cost X 0.90 X 1.15

[illegible]

\* Indicates Maximum Federal Funds due either to request by county or insufficient federal funds in 5-year Plan to fully fund project.

County Engineer or County Official

Date

**Note:** A form I302 must be returned for all projects added to the plan. Indicate the location of each project on the attached map and return.